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REDFIN CORPORATION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IVONNETH CRUZ, an individual, on  
behalf of herself, on behalf of all persons  
similarly situated, and as the representative  
of the State of California,

Plaintiff,

v.

REDFIN CORPORATION, a Corporation;  
and DOES 1 through 50, inclusive,

Defendants.

Case No. 14-5234

**DEFENDANT'S NOTICE OF REMOVAL  
TO FEDERAL COURT**

TO THE COURT, ALL PARTIES, AND ALL ATTORNEYS OF RECORD:

Defendant REDFIN CORPORATION ("Defendant," "Redfin," or the "Company"),  
for the purpose of removing this action on the basis of diversity jurisdiction and the Class Action  
Fairness Act of 2005 ("CAFA"), 28 U.S.C. §§1332, 1441 *et seq.*, and 1446, to the United States  
District Court for the Central District of California, serves notice and respectfully avers:

**PLEADINGS AND PROCEEDINGS TO DATE**

1. Due to the volume of pleadings and proceedings identified below, as well as  
the interest in conserving resources and avoiding duplicative filings in state court, Redfin will file all

1 required state court papers concurrently in the accompanying Record of State Court papers being  
2 submitted herewith.

3 2. On or about December 24, 2013, this action was filed in the Superior Court of  
4 California, County of Alameda, and assigned Case No. RG13707955 by said court. True and correct  
5 copies of the Summons and Complaint are attached hereto as Exhibit A. Defendant was served with  
6 the summons and Complaint on March 3, 2014. The remaining pleadings filed in the state court  
7 proceeding are attached to the Record of State Court Papers.

### 8 **PLEADINGS AND PROCEEDINGS TO DATE**

9 3. The Complaint is brought by the named Plaintiff, Ivonneth Cruz, on behalf of  
10 all individuals engaged by Redfin as independent contractor salespersons (also known as “Associate  
11 Agents”) during the four year period preceding the date of the initial filing of the action to an  
12 unspecified date. The Complaint asserts claims for failure to pay minimum wages, failure to pay  
13 overtime wages, failure to pay earned wages upon discharge, failure to reimburse required business  
14 expenses, failure to furnish accurate itemized wages statements, unfair business practices pursuant to  
15 Business and Professions Code section 17200, *et seq.*, and for violation of California’s Private  
16 Attorney General Act, Labor Code section 2698, *et seq.* (“PAGA”).

17 4. Defendant is informed and believes that the aforementioned Exhibit A and  
18 attachments to the Record of State Court proceeding constitute all of the process, pleadings, and  
19 orders on file in the action.

20 5. Defendant is informed and believes that there has been no service of process  
21 upon Defendant Does 1 through 100, nor other parties, named or otherwise. The identification of  
22 “Doe” defendants does not defeat removal. 28 U.S.C. § 1441(a). Accordingly, all existing and  
23 served Defendants join in the removal of this action.

24 6. The first document received by Defendant in this action establishing a basis  
25 for federal court jurisdiction under CAFA was a damages calculation made by the Plaintiffs in  
26 parallel class actions covering the same claims and class members emailed to counsel for Defendant  
27 on October 29, 2014. (Arena Decl. ¶ 3, Ex. B.) The email attached a mediation statement that  
28 contained an exhibit consisting of a detailed calculation of Plaintiffs’ claimed damages. (Arena

Decl. ¶ 3, Ex. B.) Plaintiffs calculated their damages to be in excess of \$25,000,000.00. (Arena Decl. ¶ 3, Ex. B.) Consideration of damages claimed in written settlement demands and mediation statements is appropriate to determine jurisdiction under CAFA. *See Kuxhausen v. BMW Fin'l Servs. NA LLC*, 707 F3d 1136, 1140 (9th Cir. 2013) (demand letter qualifies as "other paper" triggering 30 day deadline to remove); *Cohn v. Petsmart, Inc.*, 281 F3d 837, 840 (9th Cir. 2002) (a settlement demand is relevant evidence of the amount in controversy "if it appears to reflect a reasonable estimate of the plaintiff's claim"); *Babasa v. LensCrafters, Inc.*, 498 F3d 972, 974 (9th Cir. 2007) (mediation letter started removal clock). Although the damages calculation was submitted in connection with the related cases of *Scott Galen v. Redfin Corporation*, Case No. 3:14-cv-05229, pending in the United States District Court, Northern District of California ("*Galen*"), and *Barbara Bailey v. Redfin Corporation*, Case No. 2:14-cv-08959-SJO-MAN, pending in the United States District Court, Central District of California ("*Bailey*"), the *Galen* and *Bailey* cases assert the same causes of action and cover exactly the same putative class of Plaintiffs as in the *Cruz* action. Thus, the damages calculation in *Galen* and *Bailey* is equally applicable to the putative class in *Cruz*. (Arena Decl. ¶ 3.)

7. Thirty days since service of the first document establishing a basis for federal jurisdiction based on CAFA have not yet passed. Accordingly, removal of this action is timely pursuant to 28 U.S.C. § 1446(b)(1) and (b)(3).

### CAFA JURISDICTION

8. This action is one which may be removed to this Court by Defendants pursuant to 28 U.S.C. §§1332, 1441 *et seq.*, and 1446, in that it appears from the pleadings and other documents that there is diversity of citizenship among the proper parties and Plaintiff recently provided a written damages calculation establishing that the amount in controversy exceeds \$5,000,000.

9. Plaintiff is a resident and citizen of the State of California. (Arena Decl. ¶ 5, Ex. C.) Redfin is a Delaware Corporation with its principal place of business and corporate headquarters in Seattle, Washington. (Kilgore Decl. ¶ 3.) Thus, diversity of citizenship exists between said parties.

10. Under CAFA, the District Courts of the United States have original and removal jurisdiction over any class action where the amount in controversy exceeds \$5,000,000 and diversity of citizenship exists between the defendant and any of the class members. 28 U.S.C. §§ 1332(d), 1441(b), and 1446.

11. The case was not removed within 30 days after receipt of the Complaint in this action because one cannot tell from the Complaint whether the jurisdictional amount of \$5,000,000 can be met. (Arena Decl. ¶ 6.) The primary component of damages alleged in the Complaint appears to be for unpaid overtime compensation. The number of hours of unpaid overtime claimed by the Redfin class members cannot be determined or ascertained from the allegations in the Complaint. The Complaint alleges only that the class members worked in excess of 40 hours in a week and more than eight hours in a day. Redfin does not keep track of hours worked by its Associate Agents. (Kilgore Decl. ¶ 2.) Redfin does not have systems in place that can be used to calculate the number of hours worked by the Associate Agents. (Kilgore Decl. ¶ 2.) None of the remaining allegations in the FAC could be used to establish the \$5,000,000 jurisdictional amount to establish a basis for removal under CAFA without undue speculation. (Arena Decl. ¶ 6.) *See Roth v. CHA Hollywood Medical Center, L.P.*, 720 F.3d 1121, 1125 (9th Cir. 2013) (defendant is not required to engage in independent investigation to determine amount in controversy where amount cannot be ascertained from complaint); *Urbino v. Orkin Servs. of California, Inc.*, 726 F.3d 1118, 1122 (9th Cir. 2013) (“diversity jurisdiction does not lie because their claims cannot be aggregated”); *Smith v. Brinker Int’l, Inc.*, 2010 WL 1838726 at \*4 (N.D. Cal. May 5, 2010) (CAFA jurisdictional amount may not be based on speculative calculations).

#### RELATED CASES

12. In addition to the *Cruz* case, there are five related cases that all assert class claims against Redfin based on alleged misclassification of Redfin’s real estate salespersons. Two of those cases assert class claims on behalf of Redfin’s independent contractor salespersons, *Bailey* and *Galen*. *Bailey*, *Galen*, and *Cruz* are referred to herein as the “Independent Contractor Cases.” As with *Cruz*, neither of the operative complaints on file in *Bailey* and *Galen* establish a basis for CAFA jurisdiction because the amount in controversy cannot be established without undue

1 speculation. (Arena Decl. ¶ 7, Exs. D, E.) Defendant did not receive any documents in *Bailey* or  
 2 *Galen* establishing that the amount in controversy exceeded \$5,000,000 until Defendant received the  
 3 damages calculation on October 29, 2014. (Arena Decl. ¶ 7.)

4 13. Three other related cases already pending in Federal Court assert class claims  
 5 on behalf of salespersons employed by Redfin as employees, referred to as the “Employee Cases.”  
 6 The Employee Cases assert that Redfin’s employee sales agents were improperly classified as  
 7 exempt from overtime and related wage payment statutes. Two of the Employee Cases are currently  
 8 pending before The Honorable Philip S. Gutierrez in the Central District of California, and are  
 9 captioned as follows: *Joyti Goundar v. Redfin Corporation*, Case No. 13-CV-03698 PSG (MRWx)  
 10 (“Goundar”) and *Srbui Badivian, et al. v. Redfin Corporation*, Case No. 13-CV-03664 PSG  
 11 (MRWx) (“*Badivian*”). (Arena Decl. ¶ 8.) Defendant seeks, and hereby requests dismissal, transfer,  
 12 stay, and/or coordination of the actions before the earliest removed cases, *Goundar* and *Badivian*.

13 14. A third Employee Case originally filed in Alameda County Superior Court  
 14 was recently removed to the U.S. District Court, Northern District of California, and is captioned as  
 15 follows: *Maurice Sandoval v. Redfin Corporation*, Case No. 3:14-CV-04444 (“*Sandoval*”).  
 16 *Sandoval* is currently pending before The Honorable Samuel Conti. After removing the *Sandoval*  
 17 case, in view of the overlapping *Goundar* and *Badivian* Employee Cases, Defendant brought a  
 18 motion for abstention to have *Sandoval* stayed, dismissed, or transferred to the Central District to be  
 19 coordinated with the two Employee Cases pending before Judge Gutierrez in the Central District.  
 20 (Arena Decl. ¶ 9.) Defendant withdrew the motion after Plaintiff stipulated to transferring the case  
 21 to Judge Gutierrez to be coordinated with *Goundar* and *Badivian*. (Arena Decl. ¶ 9.) As of the  
 22 filing of this removal, the parties have not yet filed the stipulation, but expect to do so soon. Counsel  
 23 of record in *Sandoval* is the same counsel of record in *Cruz*.

24 15. The Employee Cases are related to the Independent Contractor Cases because  
 25 both sets of cases involve overlapping putative class members and legal and factual issues.  
 26 Moreover, many of the same groups of attorneys represent both putative classes.  
 27  
 28

**VENUE**

16. This is a civil suit brought in a California state court. Plaintiff alleges that she was employed in Alameda County, and that her alleged damages occurred in said county. Based on the allegations in the pleadings, Defendant is informed and believes that the events giving rise to this action occurred within this judicial district. This Court is the appropriate venue for actions removed from the Superior Court of California, County of Alameda.

17. Defendant is giving written notice of the filing of this Notice of Removal to all adverse parties as required by 28 U.S.C. § 1446(d) and will file a copy with the Clerk of Court of the Superior Court of California, Alameda County, or as further required by statute.

18. WHEREFORE, Defendant prays that the above-referenced action now pending in Alameda County Superior Court, Case No. BC512191, be removed from that court to this United States District Court.

WHEREFORE, Defendant prays that the above-referenced action now pending in Alameda County Superior Court, Case No. RG13707955, be removed from that court to this United States District Court, Northern District of California.

Dated: November 26, 2014

/s/ Ronald D. Arena  
 RONALD D. ARENA  
 ARENA HOFFMAN LLP  
 Attorneys for Defendant  
 REDFIN CORPORATION